

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HENRY O'NEIL BROWN,

Defendant-Appellant.

UNPUBLISHED

May 11, 1999

No. 203232

Jackson Circuit Court

LC No. 94-070841 FH

Before: Gage, P.J., and Gribbs and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals as of right his sentence of three to twenty years' imprisonment for delivery of less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), entered after defendant pleaded guilty to violating probation. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that the trial court failed to recognize that it had the discretion to impose less than the maximum twenty-year sentence provided for by the statute. The sentencing record does not support the proposition that the trial court believed it was required to impose a twenty-year maximum. *People v Farah*, 214 Mich App 156; 542 NW2d 321 (1995).

At defendant's motion for resentencing, the trial court stated that it fully realized that the maximum sentence could be less than twenty years. The court stated that it imposed the twenty-year sentence because it was appropriate where defendant violated probation on three different occasions. The trial court recognized and exercised its discretion, and there is no basis for setting aside the sentence. *Farah, supra*.

Affirmed.

/s/ Hilda R. Gage

/s/ Roman S. Gribbs

/s/ Joel P. Hoekstra